IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.4.2006.

CORAM

THE HONOURABLE MR. JUSTICE P.SATHASIVAM
and
THE HONOURABLE MR. JUSTICE J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.166 of 2006

Baskaran @ Auto Baskaran @ Basha Petitioner

vs.

1. The Secretary to Government,
   Prohibition and Excise Department.,
   Fort St. George,
   Madras 600 009.

2. The Commissioner of Police/
   Detaining Authority,
   Coimbatore City. Respondents

PRAYER : Writ Petition under Article 226 of the Constitution of India seeking to issue a Writ of Habeas Corpus calling for the records relating to the detention order in C.No.30/G/IS/2005 dated 9.12.2005 passed by the second respondent and quash the same and further directing the respondents to produce the body of the person of the detenu namely Baskaran @ Auto Baskaran @ Basha before this Honourable Court, who is now detained under Act 14/1982 and confined at the Central Prison, Coimbatore and set him at liberty.

For Petitioner : Mr.V.Parthiban

For Respondents : Mr.Abudukumar Rajarathinam,
Government Advocate (Crl. Side)

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(Order of the court was made by P.SATHASIVAM, J.)

Petitioner who was detained as 'Goonda' under Act 14/1982 by the impugned proceedings dated 9.12.2005 challenges the same in this petition.

2. Heard learned counsel for the petitioner and the learned Government Advocate for the respondents.

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3. At the foremost, the learned counsel appearing for the petitioner submitted that pre-detention representation nil dated was

received by the detaining authority on 15.12.2005 and the same was rejected on 19.12.2005. According to him, inasmuch as the Government approved the detention order dated 9.12.2005 on 18.12.2005, the detaining authority has no power to pass orders on the representation after the date of approval i.e., 18.12.2005.

4. As against the said claim, the learned Government Advocate has brought to our notice that the detention order dated 9.12.2005 was approved by the Government on 18.12.2005 and the same was communicated to the detaining authority on 19.12.2005. It is his claim that till receipt of confirmation order, the detaining authority is free to consider and dispose of the representation and in this way, the detaining authority has rejected the representation on 19.12.2005 which cannot be held to be illegal or improper in view of the fact that the approval order of the Government was communicated to the detaining authority only on 19.12.2005. We are of the view that the rejection order of the detaining authority on the same day cannot be faulted with. As rightly pointed out, since the detaining authority received the communication only on 19.12.2005, he is expected to consider and dispose of the representation received from the detenu or his relatives. Accordingly, we reject the first contention.

5. The learned counsel for the petitioner, after taking us through para 9 of the English version of the grounds of detention contended that there is defect in the Tamil translation which prevented the detenu in making effective representation.

6. We verified the Tamil version of para 9. We are satisfied that there is no defect as pointed out by the counsel. In fact, the detenu has made three representations to the Government. In such circumstances, we reject the second contention also.

7. Finally, the learned counsel for the petitioner submitted that there is delay in representation of the detenu.

8. The particulars furnished by the learned Government Advocate would show that the representation was received on 19.12.2005. Remarks were called for on 20.12.2005. Remarks were received on 27.12.2005. The Under Secretary and the Deputy Secretary dealt with the file on 30.12.2005 and finally, the Minister for Prohibition and Excise passed order on 2.1.2006. Rejection letter was prepared on 4.1.2006 and it was sent to the Central Prison on 6.1.2006 and served on the detenu on 9.1.2006. On going through the above details, excluding the intervening holidays, we are of the view that there is no delay as claimed by the petitioner. Accordingly, we reject the last contention also.

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9. In the light of what is stated above, we do not find any valid ground for interference. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ssk.

To

1. The Secretary to Government,
   State of Tamil Nadu,
   Public (SC) Department,
   Fort St. George,
   Chennai-600 009.

2. The Commissioner of Police/
   Detaining Authority,
   Coimbatore City.

3. The Superintendent, Central Prison,
   Coimbatore.

4. The Public Prosecutor, High Court,
   Chennai-600 104.

5.The Joint Secretary to Govt.
Public (Law & Order)
Fort St. George, Chennai -9.

+1cc to Miss V.Vanitha, Advocate Sr 20877

AK (CO)
km/9.5.

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